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## CPS Policy Best Practice Guidelines Domestic Violence

**Definition:** Domestic Violence is a pattern of assaultive and coercive behaviors, including physical, sexual, and psychological attacks as well as economic coercion, that adults or adolescents use against their intimate partners.

**Definition:** The term "non-offending caretaker" is defined as the adult victim residing in the home who has not been found to be physically or sexually abusive to the child(ren).

### **Purpose of Children's Protective Services**

The purpose of Children's Protective Services is to assure that children are protected from abuse and/or neglect caused by adults legally responsible for the child's health and welfare or by adults residing in the child's household.

### **Key Decision Points: Brief Overview**

Children's Protective Services responsibilities encompass five distinct key decision points. They are:

1. Whether to end the investigations at the screening stage or proceed with a field investigation and what priority it should have.
2. Whether or not the allegation(s) of child abuse and/or neglect should be substantiated.
3. Whether or not the case should be opened for services.
4. Whether or not to petition the Probate Court for jurisdiction - child at home.
5. Whether or not to petition the Probate Court to remove the child.

Children's Protective Services policy materials provide guidelines and standards for Children's Protective Services staff in connection with the above key points.

### **Identification of Domestic Violence**

Domestic Violence may be identified at any point in the case decision process:

1. During the intake/initial report of a case
2. During investigation and risk assessments of a case

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3. During case planning and service implementation
4. During case review/monitoring

### Whether To Investigate or Not

The Child Protection Law requires Children's Protective Services to investigate when a child has been, is being, or is threatened to be abused or neglected by adults legally responsible for the child's health and welfare or by a person 18 years or older who resides for any length of time in the same home with the child.

Children's Protective Services and law enforcement may conduct a joint investigation when the allegations have both civil and criminal implications. Children's Protective Services does a civil investigation and law enforcement does a criminal investigation. CPS and law enforcement are expected to cooperate and coordinate investigations and to share information obtained during their respective investigations with one another, including written reports.

Policy provides three basic intake criteria for accepting a report for investigation:

1. Alleged victim is under age of 18.
2. Allegations include harm or threatened harm to a child.
3. Allegations indicate that the harm was non-accidental and/or a result of negligence.

A complaint in which the only allegation is domestic violence is not a sufficient basis for accepting the complaint for investigation. A complaint which alleges domestic violence must include information indicating that the domestic violence is causing harm or threatened harm to a child in order for the complaint to meet statutory parameters for CPS involvement.

The allegations must be assessed to determine whether a child has been injured, is at risk of injury, or has been threatened with great bodily harm as a result of domestic violence in their home. Key issues which can assist in determining whether there is threatened harm are substance abuse, police involvement, a history of domestic violence, frequent or escalating domestic violence, and presence of, or use of, weapons.

All alleged or noted physical injuries to the child must be investigated.

In situations where a child is a witness to domestic violence and there are resulting observable behavioral changes in the child, an investigation should be conducted. The same key issues of substance abuse, police involvement, history, frequency or escalation of domestic violence and presence of, or use of, weapons should be considered.

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The investigation must consider all available sources of evidence such as interviews with witnesses, review of police reports and consideration of new or existing medical reports. Complaints from shelter providers which allege that a child is being injured or neglected by the custodial parent at the shelter must be investigated.

### **Risk Assessment**

The alleged seriousness of the risk to the child(ren) is the primary criteria used to determine the priority for investigation.

Risk assessment includes information about domestic violence.

Risk assessment requires using information to guide CPS decision making. Information concerning when emergency intervention is necessary, when to assess further, what the nature of the risk to the child is, who is responsible for the child being in danger, which interventions would ensure the safety of the child, and how to monitor the risk to the child over time should be considered. Information about domestic violence has to be considered in light of other information about the children, the non-offending caretaker, and the community resources available to address the problem.

### **Information needed for risk assessment of domestic violence in CPS cases:**

1. The impact of the domestic violence on the child
2. The perpetrator's assaultive and coercive conduct
3. The impact of the domestic violence on the non-offending caretaker
4. The protective factors
5. The safety assessment and risk of lethality

In every CPS case past, or current, domestic violence needs to be considered as it relates to the safety of the child(ren). There must be a routine inquiry about domestic violence during intake, field investigation, and throughout work on the case. Domestic violence often does not end when the relationship between the perpetrator and the non-offending caretaker ends.

### **Whether or Not to Substantiate**

Complaints are substantiated when there is a preponderance of evidence that child abuse and/or neglect has occurred. The evidence must support a conclusion that there is a causal relationship between the perpetrator's behavior and the child's condition or situation.

Prior to substantiating neglect against an non-offending caretaker of domestic violence, based on failure to protect a child, the worker must assess whether the child was harmed or was/is at

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imminent risk. If the child was not harmed and/or is not at imminent risk, a substantiation of neglect based on failure to protect will not be made against the non-offending caretaker.

A documented history of domestic violence where the non-offending caretaker has been unable to protect a child(ren) from a perpetrator(s) is "harm" and is to be substantiated.

When the worker assesses that the child is at imminent risk, the worker should also determine what steps the non-offending caretaker of domestic violence has taken to protect the child.

The non-offending caretaker may use a variety of coping mechanisms including hostility and defensiveness to deal with the violence in the family. Most non-offending caretakers care about their children's safety and want to protect them.

The non-offending caretaker may use protective strategies that are obvious such as physically intervening to protect the child, reporting the risk to the child authorities, or leaving the perpetrator in order to protect the child. There are additional, less obvious, protective strategies the non-offending caretaker may use such as:

- Disciplining the child so the perpetrator does not.
- Remaining in the home to protect the child (the perpetrator may have made threats against the children if the non-offending caretaker should attempt to leave or the non-offending caretaker may feel the child is at greater risk in a different environment).
- Shifting the perpetrator's abuse of the child toward abuse of the non-offending caretaker.
- Leaving children with others (outside the home) as a way to protect the children.

#### **Whether or Not to Open a Services Case**

Interventions in child welfare cases where there is domestic violence should be consistent with the following three principles:

1. Safety for children and family members must be the primary consideration in all phases of the intervention.
2. The autonomy of the non-offending caretaker should be respected and efforts to care for the children should be supported.
3. The perpetrator of domestic violence must be held responsible for acts of domestic violence and child abuse.

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A principle of practice should be to join the non-offending caretaker in the protection of her child. The domestic violence laws and local resources, including the local domestic violence service providers, can be very helpful in doing so.

If the children are at imminent risk of being harmed, the non-offending caretaker must be told that the children's safety must be the overriding priority. Leaving the batterer might place the non-offending caretaker at increased risk of harm. The non-offending caretaker must understand that the decision is theirs to make, but the worker will need to assure the safety of the child(ren).

If the non-offending caretaker decides to take action to protect herself and the child(ren), safety plans should be developed in consultation with the victim of domestic violence. A perpetrator cannot be given access to a safety plan that might contain information which could endanger the non-offending caretaker of domestic violence and the child(ren) such as names and/or addresses of persons constituting the non-offending caretaker's social support network. The worker must develop separate service plans for the victim and the perpetrator of domestic violence whenever the non-offending caretaker of domestic violence separates from the perpetrator of domestic violence and child abuse and when the perpetrator will have continued access to the child.

The presence of a boyfriend or girlfriend who is perpetrating domestic violence is a significant factor affecting child safety.

Workers should coordinate their investigation with the police. Workers should inquire regarding domestic violence incident reports involving the family.

Workers should be aware that batterers may try to use the CPS system to further abuse and retaliate against non-offending caretakers, or to gain leverage in possible custody disputes. Batterers often file false allegations of child abuse and neglect against the non-offending caretaker. This behavior may be a warning signal that the danger to the adult and child victims is increasing. The worker needs to be aware of this possibility and to respond appropriately. Whenever the worker is aware that the batterer is making false allegations of child abuse or neglect, the worker should notify the victim and the batterer that making a false report of child abuse is illegal.

### **Whether or Not To Petition for In-Home Supervision**

If the parents do not appear willing to improve conditions for the child without the use of court authority, or when it is appropriate to ask the court to order the offending caretaker out of the home, and a child can remain in his or her own home with reasonable safety, a petition for court jurisdiction without removal of the child is to be filed.

In domestic violence cases, if the non-offending caretaker decides to separate from the perpetrator of domestic violence and child abuse, a court order which stipulates what the perpetrator can and cannot do can be very helpful. The court order can be used to support the

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safety plan which the worker and the non-offending caretaker have developed.

**Whether or Not to Remove**

A petition for removal is appropriate when:

1. The situation is an emergency because a child would be in imminent danger without removal and interventions other than removal will not protect the child, or
2. The situation is an emergency since interventions provided did not eliminate the need for removal.

Domestic violence cases can present high risk situations for children. If the worker is unable to develop a safety plan that will protect the children with the non-offending caretaker and the children are at imminent risk of harm, a petition for removal must be filed. A petition is also necessary when the non-offending caretaker is unable to protect the children from serious harm or when the non-offending caretaker of domestic violence is also abusing or neglecting the children and the children are at imminent risk.